

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:12-cr-00018-RLY-MPB
)	
RALPH B. TURNER,)	-01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On November 3, 2020, the Court held an Initial Appearance on a Warrant for Violation of Supervised Release. On December 3, 2020, the Court held the Final Disposition Hearing on Revocation of Supervised Release. Defendant Turner appeared in person with his appointed counsel Chad Groves. The government appeared by Todd Shellenbarger, Assistant United States Attorney. The United States Probation and Parole Office appeared by Officer Katrina Sanders.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Turner of his rights and provided him with a copy of the petition. Defendant Turner waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Turner admitted violations 1, 2, 3, 4, 5, 6 and 7 ([Docket No. 61](#)).
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

	Violation Number	Nature of Noncompliance
	1	<p>"You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage."</p> <p>The offender tested positive for amphetamines on October 7, 2020. The test confirmed positive for methamphetamine.</p> <p>As previously reported to the Court, the offender tested positive for cannabinoids on August 26, 2020. This test confirmed positive for THC. The offender also tested positive for cannabinoids on February 27, 2020.</p>
	2	<p>"You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods."</p> <p>The offender failed to report for drug screens on October 9 and 12, 2020.</p>
	3	<p>"You shall participate in a mental health treatment program, as approved by the probation officer, and abide by the rules and regulations of that program. The probation officer, in consultation with the treatment provider, shall supervise participation in the program (provider, location, modality, duration, intensity, etc.). You shall take all mental health medications that are prescribed by your treating physician."</p> <p>As previously reported to the Court, the offender missed his mental health treatment appointment with Southwestern on September 14, 2020, and failed to call to reschedule.</p>
	4	<p>"You shall not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances (e.g., synthetic marijuana, bath salts, Spice, glue, etc.) that impair a person's physical or mental functioning, whether or not intended for human consumption."</p> <p>As previously reported to the Court, on July 9, 2020, the offender admitted to smoking Spice the day prior.</p>

5		<p>"You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege."</p> <p>As previously reported to the Court, on July 8, 2020, this officer conducted a home contact at the offender's residence. The offender indicated he was home alone; however, as this officer walked through the residence, a female was in the kitchen and two other people were found hiding in the bathroom.</p>
6		<p>"You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact."</p> <p>As previously reported to the Court, the offender admitted to smoking Spice with three other individuals at his house on July 8, 2020.</p>
7		<p>"You shall participate in a program of treatment for sexual disorders, including periodic polygraph examinations, as directed by the probation officer. The treatment provider should determine the type and timing of such polygraph examinations. The court authorizes the release of the presentence report and available psychological evaluations to the treatment provider, as approved by the probation officer."</p> <p>The offender's sex offender treatment counselor informed this office on October 26, 2020, that the offender has missed treatment for three weeks.</p>

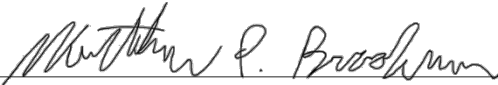
4. The parties stipulated that:
- (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant's criminal history category is VI.
 - (c) The advisory range of imprisonment applicable upon revocation of supervised release, therefore, is 21-24 months' imprisonment.

5. The parties jointly recommended a sentence of twenty-four (24) months with no further supervision upon release from imprisonment.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he be sentenced to custody of the Attorney General or his designee for a period of twenty-four (24) months, with no further supervision to follow upon release.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: December 4, 2020


Matthew P. Brookman
United States Magistrate Judge
Southern District of Indiana

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